



California Fair Political Practices Commission

December 8, 1986

86-348

Vance Raye
Legal Affairs Secretary
Office of the Governor
State Capitol
Sacramento, CA 95814

Dear Vance:

At your request, I have reviewed your November 10, 1986 memorandum on donations of private aircraft travel. It is basically accurate, but a few changes to items 3 and 4 are needed.

The second sentence in item 3 should be modified to read:

The donor of the air travel, assuming the donor is not the candidate or committee holding the fundraiser, may be required to report the value of the services as an in-kind contribution to the candidate or committee and the candidate or committee must also report the air travel as an in-kind contribution received.

In item 4, it is important to clarify that the exception for intrastate travel to speaking engagements applies only when the travel is provided by the sponsor of the event. The text of that item should be modified to read:

Intrastate travel provided at no cost by the sponsor of a nonpolitical event at which the Governor speaks need not be reported.

I note that the text of your memo refers only to the Governor himself, but the subject summary includes members of his staff. This point needs clarification. If the memo is intended to refer only to private aircraft use by the Governor, the subject summary should be changed accordingly. If your intent is to include staff, further changes to items 3 and 4 are required.

Vance Raye
December 8, 1986
Page 2

Item 3 does not apply to staff under all circumstances. Free air travel provided to a staff member to attend a fundraiser probably would be a gift to the staff member, rather than a contribution to the candidate or committee holding the fundraiser, if the staff member was simply riding along with the Governor rather than attending the fundraiser at the request of the hosting candidate or committee in order to draw more guests to the fundraiser. This is because the presumption of quid pro quo received by the candidate or committee for an elected official's appearance would not apply to a staff member attending a fundraiser under these circumstances.

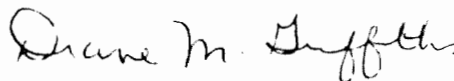
Item 4 must also be modified to clarify that it only applies to the staff member if he or she speaks. It would not apply to travel provided to a staff member who accompanies the Governor to an event at which the Governor speaks.

With these changes, the memo accurately summarizes the applicable legal rules. As to item 4, you have included a citation to support the rule stated. If you wish to include citations for the other items, they would be:

1. See Stone Opinion, 3 FPPC Ops. 52, 58.
2. See Stone Opinion, 3 FPPC Ops. 52, 58; Brown Opinion, 1 FPPC Ops. 67; Cory Opinion, 1 FPPC Ops. 137. See also FPPC Regulation 18727.5.
3. See Stone Opinion, 3 FPPC Ops. 52, 58; Brown Opinion, 1 FPPC Ops. 67; Cory Opinion, 1 FPPC Ops. 137.

Please accept my apology for the delay in responding, but I was quite ill for several days. Give me a call if I can be of further assistance. I look forward to meeting with you and John Larson on the 15th.

Sincerely,



Diane M. Griffiths
General Counsel

DMG:sm

To: Donors of Private Aircraft
From: Governor's Scheduling Office
Subject: Policy regarding the use of private aircraft by the Governor and members of his staff
Date:

Under the Political Reform Act, the Governor is required to report the value of gifts received by him. The Governor's Campaign Committee is also required to report contributions received on the Governor's behalf. The Fair Political Practices Commission has ruled that under certain circumstances the value of air transportation furnished to the Governor may be reportable as a gift, or a campaign contribution, depending on the purpose of the travel. However, as a general rule, reimbursement of the aircraft owner avoids the necessity of reporting.

We have identified four circumstances in which private aircraft are generally made available to the Governor. Under most circumstances the Governor will not incur a reporting obligation. The circumstances are as follows:

1. For State Business Purposes: Private aircraft are typically provided to enable the Governor to perform an official state function. Private air travel permits travel at a time or to a location not served by scheduled airlines. Under FPPC opinions, payment to the donor of the commercial airfare constitutes consideration in full for the trip. As no gift is thereby conferred, there is no gift reporting responsibility. Conversely, if no payment is made, a reportable gift is conferred.

2. Campaign Purposes: If a trip is taken for a campaign purpose, privately furnished air travel will constitute a contribution to the campaign, unless payment for the travel is made. Payment at the commercial rate obviates the necessity of reporting.

3. Fundraisers: If the Governor uses a donated aircraft to attend a campaign activity for another candidate or political action committee, no reporting or payment responsibility is created for the Governor. The donor of the air travel, assuming the donor is not the candidate or committee, should report the value of the services as a donation to the candidate's committee and the candidate or political action committee must also report the donation.

4. Travel to Non-political Speaking Engagements: Intrastate travel provided at no cost in connection with an event at which the Governor speaks need not be reported. FPPC Reg. section 18728.

The foregoing discussion is intended to summarize the guidelines the Governor will follow in reporting and providing reimbursement for air transportation provided by private parties. The furnishing of air transportation may also create reporting obligations for the donor. Donors should be mindful of such reporting responsibilities and may wish to consult with the Fair Political Practices Commission. We would also be pleased to confer with donors on questions regarding reporting obligations.